

APPEAL NO. 042762  
FILED DECEMBER 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 29, 2004. The hearing officer resolved the disputed issue by deciding that the compensable injury of \_\_\_\_\_, does not include the left knee. The appellant (claimant) appealed, arguing that the preponderance of the medical and testimonial evidence proves that the claimant sustained an injury to her left knee on \_\_\_\_\_. The respondent (self-insured) responded, urging affirmance.

DECISION

A timely request for review not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(e) (Rule 143.3(e)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(e) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

The records of the Commission reflect that the decision of the hearing officer was distributed on October 6, 2004, under a cover letter of the same date. The claimant states in her request for review that she received the decision of the hearing officer on October 11, 2004. The claimant's appeal needed to be mailed no later than November 1, 2004, the 15th day from the date of receipt. The claimant's request for review was sent to the Commission by U.S. mail.

The envelope in which the appeal is transmitted bears a postage meter date stamp of November 1, 2004, but also bears a United States postmark of November 2, 2004. We have repeatedly held that when there is a date discrepancy between a postage meter date stamp and the postmark of the United States Postal Service (USPS) that the USPS postmark controls. Texas Workers' Compensation Commission Appeal No. 981793, decided September 15, 1998, *and cases cited therein*.

The claimant's appeal not having been timely filed, the decision and order of the hearing officer have become final. Section 410.169.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge